

Exhibit “A”

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA
CIVIL ACTION - LAW

Sabrina Moscatiello,
Plaintiff,

Case No: AR-18-00 0008

v.

**Complaint in Civil
Action**

Capital Management Services, LP,
Defendant.

Filed on behalf of:
Sabrina Moscatiello, Plaintiff

Counsel of Record:
Clayton S. Morrow, Esquire
PA I.D. #53521

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Jury Demanded upon appeal or removal.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA
CIVIL ACTION - LAW

Sabrina Moscatiello,
Plaintiff,

Case No: AR-18-00 0008

v.

Capital Management Services, LP,
Defendant.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objection to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555**

HEARING NOTICE

YOU HAVE BEEN SUED IN COURT. The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Room 702 of the Allegheny County City-County Building, 7th Floor, 414 Grant Street, Pittsburgh, Pennsylvania, 15219 on March 12, 2018, 201 at 9:00 A.M. IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.

DUTY TO APPEAR AT ARBITRATION HEARING

If one or more of the parties is not present at the hearing, THE MATTER MAY BE HEARD AT THE SAME TIME AND DATE BEFORE A JUDGE OF THE COURT WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

NOTICE: *You must respond to this complaint within twenty (20) days or a judgment for the amount claimed may be entered against you before the hearing.*

If one or more of the parties is not present at the hearing, the matter may be heard immediately before a judge without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA
CIVIL ACTION - LAW

Sabrina Moscatiello,
Plaintiff,

Case No: AR-18-000008

v.

Capital Management Services, LP,
Defendant.

COMPLAINT IN CIVIL ACTION

Plaintiff, Sabrina Moscatiello, brings this action with regards to the Defendant's debt collection practices which she alleges violates certain laws and statutes, and to recover damages by reason of Defendant's violation of certain laws and statutes, and alleges:

PARTIES

1. Plaintiff, Sabrina Moscatiello (herein "Moscatiello") is a citizen of the Commonwealth of Pennsylvania, from whom Defendant attempted to collect a consumer debt allegedly owed to the defendant via a purported assignment by Chase Bank USA, NA 430587100609146 in the original approximate balance of \$9,965.33 (herein "Debt").
2. Plaintiff Ms. Moscatiello is a "consumer" as the term is defined in the FDCPA. For purposes of the Act, she must be presumed to be a "least sophisticated consumer."
3. The alleged debt, the validity of which Plaintiff disputes, was for personal, family, or household purposes, *i.e.*, a personal credit card, bring Defendants' collection activities within the purview of the FDCPA, 15

U.S.C. §1692a(5).

4. Defendant, Capital Management Services, LP (herein "Capital Management"), of 698 1/2 South Ogden Street, Buffalo, NY 14206-2317, is a firm that practice debt collection and which acts as a debt collectors, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer debts in Allegheny County, Pennsylvania. Capital Management Services is a Delaware limited partnership with a registered agent Corporate Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.
5. Plaintiff brings this action against Defendant according to and to remedy Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").
6. Venue is proper in Allegheny County, Pennsylvania pursuant to Pa R.C.P. 2179(a)(2) and/or (a)(3).
7. There is abundant evidence of the use of abusive, deceptive and unfair debt collection practices by many debt collectors.
8. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs and to invasions of individual privacy.
9. Violations of the FDCPA by their very nature are considered/expected to cause emotional distress.
10. Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

11. It is the purpose of the FDCPA to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses. See 15 USC §1692 - Congressional findings and declaration of purpose.
12. The FDCPA is to be enforced by private attorney generals. *Weiss v. Regal Collections*, 385 F.3d 337,345 (3d Cir. 2004). The FDCPA provides for a fee shifting provision, the debt collector shall pay the customers attorney fees.
13. The FDCPA is a strict liability statute; proof of one violation is sufficient to support judgment for the consumer. *Cacace v. Lucas*, 775 F. Supp. 502, 505 (D. Conn. 1990).
14. Importantly, the question of whether the consumer actually owes the alleged debt has no bearing on FDCPA claims. *McCartney v. First City Bank*, 970 F.2d 45 (5th Cir. 1992).
15. Actions of a debt collector are evaluated through the lens of an “unsophisticated consumer,” meaning consumers of “below average sophistication or intelligence.” *Owens v. Hellmuth & Johnson*, 550 F.Supp.2d 1060 (D. Minn. 2008).
16. Communication made to a consumer’s attorney was governed by § 1692f, the Third Circuit has held that “[i]f an otherwise improper communication would escape FDCPA liability simply because that communication was directed to a consumer’s attorney, it would undermine the deterrent effect

of strict liability.” See Allen ex rel. Martin v LaSalle Bank, N.A., 629 F.3d 364, 368 (3d Cir. 2011).

Count I

Moscatiello v Capital Management Services, LP

17. Plaintiff adopts and realleges the above captioned paragraphs.
18. Defendant, its agents, servants, and/or employees, are “debt collectors” within the meaning of the FDCPA, 15 U.S.C. § 1692a(6).
19. On or about December 6, 2017, defendant Capital Management Services, LP caused to be mailed a collection letter seeking the sum of \$4,027.86 for its client Discover Bank from Ms. Moscatiello.
20. On or about December 10, 2017, defendant Capital Management Services, LP caused to be mailed a collection letter seeking the sum of \$3,554.42 for its client Discover Bank from Ms. Moscatiello.
21. Both collection letters are seeking an incorrect amount of money from Ms. Moscatiello.
22. Defendant violated 15 U.S.C. §§1692e, 1692e(2), 1692e(10), 1692f, and 1692f(1), with respect to plaintiff by attempting to collect an amount that is not owed by Ms. Moscatiello.

Count II

**Violation of Pennsylvania Fair Credit Extension Uniformity Act and The
Pennsylvania Unfair Trade Practices and Consumer Protection Law
(UTPCPL)**

23. Plaintiff adopts and realleges the above captioned paragraphs.
24. Defendant's attempt to collect an amount that is not owed was a material fact and the failure to disclose to Plaintiff Moscatiello was a violation of the

Pennsylvania Fair Credit Extension Uniformity Act (PRCEUA) and the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL).

25. Defendant's conduct as set forth in the preceding paragraphs of this Complaint violates the Pennsylvania Fair Credit Extension Uniformity Act (PRCEUA) and the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL).
26. As a result of the conduct of Defendants, Moscatiello suffered damages consisting of actual damages, trebled statutory damages, costs and reasonable attorney fees incurred in the prosecution of this claim.

Wherefore, Plaintiff Sabrina Moscatiello demand judgment against the Defendant in an amount not in excess of arbitration limits for actual damages, statutory damages, costs and reasonable attorney's fees.

PRAYER FOR RELIEF

Plaintiff, Sabrina Moscatiello pray that this Court:

1. Declare that Defendant's debt collection practices violated the FDCPA and PRCEUA;
2. Enter judgment in favor of Plaintiff, and against Defendant, for actual and the maximum amount of statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA and PRCEUA;
3. Plaintiff seeks an amount not in excess of Arbitration Limits; and,
4. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Sabrina Moscatiello demands trial by jury Upon Appeal or Removal.

ARBITRATION LIMITS

This matter is filed within this court's arbitration limits.

Plaintiff, Sabrina Moscatiello,

By: /s/ Clayton S. Morrow
Clayton S. Morrow, Esquire

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